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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, DECEMBER 23, 2002

PETITION OF

WASHINGTON GAS LIGHT COMPANY

CASE NO. PUE-2002-00178

For approval of a plan to  
remedy billing errors

**FINAL ORDER**

**History of the Case**

On March 25, 2002, Washington Gas Light Company (“Washington Gas” or “Company”) filed a Petition with the State Corporation Commission ("Commission") for approval of “certain aspects” of its plan to remedy billing errors, pursuant to 5 VAC 5-20-100 B of the Commission’s Rules of Practice and Procedure (“Rules”). Washington Gas requested that the Commission approve its plan to use an annual leak survey program to identify customers who have been billed incorrectly. According to the Company, the billing errors resulted from an inconsistency between the delivery pressure of gas reflected in the Company’s billing system and the actual delivery pressure to certain of its customers in Virginia and resulted in overcharges in some cases and undercharges in others. The Company discovered these errors in March 2001.

By Order dated April 10, 2002, the Commission docketed the matter; determined that the matter should be treated as an Application pursuant to 5 VAC 5-20-80 A of the Rules; assigned the matter to a Hearing Examiner; and directed any interested party and the Commission’s Staff ("Staff") to file with the Commission by May 10, 2002, a responsive pleading to the Application

or a request for hearing or both. The Company was also directed to provide public notice of its Application.

On May 3, 2002, Washington Gas filed proof of notice required by the April 10, 2002, Order.

By Hearing Examiner's Rulings dated May 9, 2002, and May 23, 2002, the deadline for interested parties to file responsive pleadings was extended to May 24, 2002, and then to June 21, 2002, respectively.

#### Joint Stipulation

On June 21, 2002, Washington Gas filed a Joint Stipulation ("Stipulation"), which it stated resolved all issues related to the remediation of billing errors. Washington Gas represented that the Staff, Division of Consumer counsel of the Office of the Attorney General ("Attorney General"), and Washington Gas Energy Services, Inc. ("WGES"), agreed to the Stipulation. In addition, Washington Gas represented that the Arlington County Citizen and Consumer Affairs Office ("Arlington County") and the Fairfax County Consumer Protection Division ("Fairfax County") would support the Stipulation before their respective County Boards of Supervisors.

The salient features of the Stipulation include the following:

- (1) Washington Gas will make refunds for overcharges on bills rendered beginning March 1996, or the date the customer commenced service, whichever is later, and ending on the date the billing for the customer is corrected.
- (2) Washington Gas may collect from customers who were under-billed during the one-year period preceding the date the billing is corrected, or for a period beginning when the customer commenced service, whichever period is lesser.

(3) Washington Gas may use its annual leak survey program to identify customers who were incorrectly billed as a result of the improper application of, or the failure to apply, the 2-psi billing adjustment factor.

(4) For customers who received gas through a supplier other than Washington Gas, the portion of the bill owed to Washington Gas will be recalculated based on the Company's delivery charge, and the "commodity" charge also will be recalculated to determine whether Washington Gas caused the supplier to incorrectly charge for gas. The Company will work with each supplier to reconcile any amount over- or under-billed. Washington Gas will then refund or re-bill these amounts on the Washington Gas portion of the bill.

Also on June 21, 2002, the Attorney General filed comments in favor of the Stipulation, but also requested a public hearing for affected current and former customers to present their individual views to the Commission. A Hearing Examiner's Ruling scheduled public hearings for September 9, 2002, at 2:00 p.m. and 7:00 p.m. at the Fairfax County Judicial Center and directed the Company to provide public notice of the hearings.

In a letter dated June 28, 2002, Pepco Energy Services, Inc. ("Pepco"), stated that it did not support the Stipulation because of concerns that under the provisions of 20 VAC 5-312-90 H, which governs the assignment of customer payments when a customer makes a partial payment, under-billed errors of Washington Gas will have a higher payment priority than the services provided by competitive suppliers.

In a Hearing Examiner's Ruling dated August 20, 2002, Washington Gas was granted leave to amend the Stipulation to add a signature line for Fairfax County, since the Fairfax County Board of Supervisors approved the Stipulation at its July 22, 2002, meeting.

### September 9, 2002 Public Hearings

On September 9, 2002, public hearings were convened as scheduled at the Fairfax County Judicial Center. No public witnesses offered testimony at either the 2:00 p.m. hearing or the 7:00 p.m. hearing. During the 2:00 p.m. hearing, a letter was received from Mike Kilgore in which he questioned the safety of gas service provided by the Company. Mr. Kilgore also recommended that Washington Gas pay all over-billed customers from shareholder funds and not be allowed to collect any money from under-billed customers. The September 9, 2002, public hearings also served as the evidentiary hearings in this matter. Representing Washington Gas was Donald R. Hayes, Esquire, and Douglas Pope, Esquire. Dennis R. Bates, Esquire, appeared on behalf of the Fairfax County Board of Supervisors. Charles Wood appeared on behalf of Arlington County. Christy A. McCormick, Esquire, appeared on behalf of the Attorney General. Katharine A. Hart, Esquire, and Allison L. Held, Esquire, represented the Staff.

At the public hearing, counsel for Washington Gas presented the Stipulation and addressed two issues. The first was the issue of partial payment priorities addressed in Paragraph 7 of the Stipulation. Counsel for Washington Gas explained that under the Stipulation, charges billed to a customer who was under-billed due to the billing error will be treated as current charges of the local distribution company for purposes of 20 VAC 5-312-90 H. Thus, such charges would have priority over current charges of competitive service providers. The second issue was whether the billing error provides any indication that there is a related safety or delivery pressure problem. Counsel for Washington Gas affirmed that the billing errors were strictly a billing coding problem, not a safety or delivery pressure problem. The Company also indicated during the hearing that it will focus on collecting the undercharges from existing customers, but stated that if a customer should call the Company to determine whether he or she

has been overcharged or undercharged, Washington Gas may use that information to collect undercharges from that customer. Counsel for the Company noted, however, that there will not be any organized means of identifying former customers.

#### Hearing Examiner's Report

On October 11, 2002, the Hearing Examiner issued his Report. In his Report, the Examiner found that the Commission is not required to resolve any issues that may arise concerning partial payment because Paragraph 7 of the Stipulation does not explicitly address partial payment priorities. He recommended that the Commission encourage the Company and competitive service providers ("CSPs") to work through any issues that may arise concerning partial payments. He also stated that he could not find anything in the record that remotely suggests that the billing problem in this case is related in any way to a safety or delivery pressure problem. The Examiner therefore found that the Stipulation offers a reasonable and just resolution to all of the issues in this case, and that it should be adopted.

The Examiner recommended that the Commission enter an order that adopts the findings in his Report, approves the Stipulation, and dismisses the case from the Commission's docket of active matters.

On October 31, 2002, the Fairfax County Board of Supervisors filed comments on the Report. In its comments, the Fairfax County Board of Supervisors endorsed the Report and requested that the Commission approve the Stipulation and hold open the record of this proceeding until the Company presents evidence that the billing errors are corrected and that refunds of overcharges and collection of undercharges have been completed.

On November 1, 2002, Washington Gas filed its comments on the Report. In its comments, the Company noted that the Stipulation received broad support, including from the

Company, the Staff, the Attorney General, the Fairfax County Board of Supervisors, and by WGES, and that no public witness offered testimony at either of the two public hearings that were held on September 9, 2002. Washington Gas also discussed the concern expressed by Pepco relating to the application of payments when a customer makes a partial payment of charges appearing on a consolidated bill. The Company stated that, in accordance with the recommendation in the Report if it is adopted by the Commission, Washington Gas will work with CSPs to attempt to resolve any issues that may arise concerning the treatment of partial payments. The Company urged the Commission to adopt the recommendations in the Report at its earliest convenience so that the Company can begin implementing the terms of the Stipulation.

#### Commission's November 13, 2002, Order on Stipulation

On November 13, 2002, the Commission entered an Order on Stipulation. In the Order, we commended the parties to this case for working diligently to achieve resolution to the billing problem, and accepted the Stipulation with one modification. We required that the Stipulation be modified to require Washington Gas to provide written notice to former customers, at the last known address from the Company's records, who the Company determines are entitled to a refund under the terms of the Stipulation. The notice requirement is only to apply where the refund amount is greater than \$1.00 and shall state the amount of the refund due. The notice also requires former customers to respond to the Company, in writing within 90 days from the date of the letter, and confirm that they were a customer of record in the premises identified as having been affected by the 2-psi billing adjustment matter. We recognized that the modification changed the terms of the Stipulation, and therefore required all signatories to the Stipulation to

agree to incorporate this modification. We directed the parties to file notice with the Commission no later than December 11, 2002, stating whether the modification was acceptable.

On December 10, 2002, Washington Gas filed a letter advising the Commission that it accepts the modification to the terms of the Stipulation described in the November 13, 2002, Order. In the letter, Washington Gas stated that it contacted all of the other signatory parties to the Stipulation, including the Staff, the Attorney General, WGES, and the Fairfax County Board of Supervisors, and has authorization to state that none of these parties opposes the modification. The Company also stated that Paragraph 4 of the Stipulation provides, in part, that Washington Gas “. . . will calculate applicable refunds or undercharges as soon as practicable after determining that a customer has been billed incorrectly.” While no change is required to that language, the Company stated that it has advised the parties that, as a result of programming changes required to implement the modification, it may require an additional period of time to calculate refunds or undercharges.

On December 11, 2002, counsel for the Fairfax County Board of Supervisors filed a Notice of Acceptance of the Modification.

NOW THE COMMISSION, having considered the record, the Company's application, the Stipulation, the Hearing Examiner's Report and the comments thereto, the Company's December 10, 2002, letter, and the applicable law, finds that the Stipulation proffered by Washington Gas, the Staff, the Fairfax County Board of Supervisors, WGES, and the Attorney General is hereby adopted, with Section 1 modified as follows:

1. The Company shall refund to current customers of record who were overcharged as a result of the improper application of the 2-psi billing adjustment factor all overcharges on bills rendered between the period beginning with the later of: (i) March 1996, or (ii) the date the customer commenced service at the current service address, and ending on the date the billing for such customer is corrected by eliminating the 2-psi billing

adjustment factor. Refunds shall be made only to customers who are current customers of record in a premises affected by the 2-psi billing adjustment problem as of the date billing errors related to the 2-psi billing adjustment problem are confirmed to exist in the Company's billing system for each such customer, and to former customers as provided in this paragraph. Washington Gas shall provide written notice to former customers, at the last known address from the Company's records, who the Company determines are entitled to a refund under the terms of the Stipulation. This notice requirement shall only apply where the refund amount is greater than \$1.00 and shall state the amount of the refund due. Such notice also shall require the former customers to respond to the Company, in writing within 90 days from the date of the letter, and confirm that they were a customer of record in the premises identified as having been affected by the 2-psi billing adjustment matter. The Company shall respond to inquiries from current and former customers in a timely and accurate manner . . .

We find that the Stipulation, as modified above, offers a reasonable and just resolution to the billing error problems in this case.

Accordingly, IT IS ORDERED THAT:

(1) The Stipulation entered into between Washington Gas, the Staff, the Fairfax County Board of Supervisors, WGES, and the Attorney General, as modified by this Order, is ADOPTED.

(2) Pursuant to Section 5 of the Stipulation, within 60 days from the date of this Order, the Company shall file with the Commission a proposed tariff or other appropriate proposal for the resolution of general billing errors that might occur in the future.

(3) Pursuant to Section 6 of the Stipulation, the Company shall file a report with the Commission's Division of Energy Regulation on a semi-annual basis regarding the status of the resolution of the billing errors relating to the 2-psi billing adjustment problem. The Company's first report is due March 30, 2003.

(4) There being nothing further to come before the Commission, this matter shall be removed from the docket and the papers placed in the file for ended causes.